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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable JIM DEMINT, a Senator from the State of South Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

O God of mercies, You preserve the seas and all that is in them. You have promised to keep in perfect peace those whose minds are fixed on You.

Give our Senators today the serenity that comes through trusting in Your strength. As they do the work of freedom, may they seek Your guidance and wisdom. Lead them with Your precepts to the decisions that will honor Your name. Give your peace and unity to their hearts so that harmony can be seen in their interactions. Shine Your light within them so that they can serve humanity well.

Help us all to humble ourselves under Your mighty hand, that You may exalt us in due time. We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM DEMINT led the Pledge of Allegiance, as follows:

I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 25, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JIM DEMINT, a Senator from the State of South Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. DEMINT thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, we will start with a 1-hour period of morning business, and following that we will go into executive session to consider the nomination of Gray Miller to be a U.S. district judge for the Southern District of Texas. We have 10 minutes allocated for debate on that nomination, with the vote occurring after that time.

Senators can expect the first vote today at approximately 11 o'clock this morning. We have a group of Senators going to the White House. Therefore, we want to start that vote no later than 11 o'clock. I hope Members will be able to keep their remarks brief so we can get to that vote.

After the vote, we will resume consideration of the supplemental appropriations bill. There is an opportunity for Senators to give opening statements this morning prior to the policy lunch. The Senate will recess for each party's policy meeting between 12:30 and 2:15. Later this afternoon, I expect amendments to be offered to the supplemental, and I hope we will be voting on those amendments during today's session.

FOCUSING ON THE CHALLENGES FACING AMERICA

Mr. FRIST. Mr. President, I welcome my colleagues back from the Easter/

Passover recess. It was a 2-week recess, where many had the opportunity to spend time with our families and with our constituents back at home. I hope everybody had a rejuvenating and productive period of time because we have a lot to do.

We have before us a 5-week block of time, during which I intend to keep the Senate focused on the big challenges facing America and on delivering meaningful solutions to the problems Americans are seeing out there every day, some of which are very apparent and some of which are not very apparent in their everyday lives.

As we set out from the very start, the goal of this Republican-led Senate is to make America safer, stronger, more productive, and healthier. That applies across the board, from the war on terror abroad—and we will have a lot of discussion on that on the supplemental—to the family budget right here at home, and people are feeling the pinch of gasoline prices and skyrocketing health care costs every day.

Time is of the essence. We have serious issues to tackle in 5 short weeks. That means working together, pulling the very best out of both sides of the aisle, and recognizing that obstruction is not in order as we proceed along this upward path of producing for the American people.

It is an election year. That always makes it challenging for everything we do every step along the way. But the American people expect us to legislate, to govern, and not to get mired down in partisan obstruction and partisan politics. It is our obligation and responsibility to deliver to them. We have the challenges out there. We have to act and we need to act with solutions. That is what the American people expect—challenge, action, solutions. That is what they deserve.

We need to support our troops who are fighting in the field for our freedom and safety. We need to address the skyrocketing health care costs and make

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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health care more affordable, more accessible to every American, no matter where they live. We need to put judges on the bench who interpret and not make the law. We need to keep our economy strong and growing. We need to tackle that rising cost of gasoline. Right now it is up, teetering at the \$3 level. That is too much to be paying per gallon.

Over the next 5 weeks, we are going to tackle each of these items. I call upon my colleagues on both sides to work together to get this done for the sake of our fellow citizens who have sent us here to work for them, to represent them.

Unfortunately, before the Easter recess, obstruction from the other side got in the way of comprehensive border security and immigration reform. But as I have announced over the last couple of days, I intend to bring this issue back and to continue driving forward on this important issue to the American people. We need real border security. That includes a fence along certain parts of the border, surveillance along other parts of the border. But we have to get this border under control. We took very positive steps last year in increasing the number of border agents and the number of detention facilities, and both are very important in this supplemental bill over the next several days. We will once again address border security.

We also need employer enforcement in a system that addresses the fact that we have 12 million to 20 million individuals who right now are kept in the shadows. Building on last year's efforts, spearheaded by the Senate, I will support an effort to put funds into the supplemental bill to make our next downpayment on securing the border.

Hiring more Border Patrol agents and giving them the tools they need to get the job done doesn't need to wait until we finish the overall immigration bill. We can take important steps now and indeed we will. It is part of the challenge, the action, and the solutions the American people want; they want serious reform.

Keeping America strong also means keeping America healthy. Insurance premiums have risen—health insurance premiums—73 percent over the last 5 years. It hits small businesses and their employees in particular. Of the 20 million Americans who are working and are uninsured, don't have health insurance, 49 percent are self-employed or work in firms with fewer than 25 employees. According to the Institutes of Medicine, nearly 18,000 Americans die prematurely each year due to lack of insurance. It is a fact. It has been proven again and again.

If you have health insurance—even if you do not have comprehensive health insurance, but you have any health insurance, you do better in terms of health outcomes. Last month, the HELP Committee reported out a bill to allow small businesses to band together all over a community to reach

out and gain that purchasing clout which we know in the marketplace can drive prices down. It can make those insurance policies less expensive and thus more accessible.

The Enzi legislation, when fully phased in, would reduce employer premiums by 12 percent and the number of uninsured workers by at least a million. Voters are close to unanimous in their support for allowing self-employed workers and small business employees to band together to negotiate lower insurance costs as spelled out in that Enzi bill.

Again, challenge, action, solutions. It is time to get it done.

We have also known for some time that the medical malpractice system is broken. It is driving up costs, driving my doctor colleagues out of their professions, from practicing medicine and delivering care. Nearly half of America's counties today lack an obstetrician/gynecologist, and that is due in large part to excessive, skyrocketing medical malpractice premiums. Three out of four neurosurgeons will no longer operate on children. When you ask why, it is because of medical liability. And 79 percent of doctors practice defensive medicine for fear of getting sued. That means when somebody comes in and they have a headache, you get a whole barrage of unnecessary tests to protect yourself in the event there is a lawsuit. Health care costs have risen between \$70 billion and \$126 billion in defensive medicine costs.

I was in Texas the other day. Texas is fascinating to me as a physician. They recently adopted liability reform measures. The largest malpractice insurer in the State immediately began lowering premiums, and premiums in that State are now down by 22 percent. Indeed, there is an influx of doctors from all over the country moving to Texas because of this very effective, proven to be effective, malpractice reform. An overwhelming majority of Americans support a Federal law to limit jury awards to compensate for pain and suffering in medical malpractice suits. Challenge, action, solutions. It is time to get this done.

Keeping America strong means keeping our economy thriving. That is why we passed the Tax Relief Act of 2005. We know that tax cuts work. We know they grow the economy and help create jobs. In 2001, we passed \$1.4 trillion in tax relief; 2 years later, another \$350 billion. That is \$1.7 trillion that goes into the pockets of everyday, hard-working Americans for them to save, to spend, to invest. We cut taxes on income and marriage. We doubled the child tax credit and slashed taxes on capital gains and dividends. Because we did, our economy has grown.

Right now, each month we are creating about 200,000 new jobs. Over the last 32 months, we have created 5.1 million new jobs. Home ownership is up. Minority home ownership is up at all-time highs.

Tax relief has led to 3 years of record economic growth. But we have a lot

more to do. In the next 5 weeks, I intend to bring legislation to the floor to eliminate the death tax once and for all. The death tax is unfair, it is inefficient, and it taxes people for dying. It is double and triple taxation. The death tax drives hard-working people to spend billions of dollars on complicated tax structures for the sole purpose of avoiding death taxes on income that has already been taxed.

Because of Katrina, we could not move forward on repealing the death tax last fall, but now is the time to bury that death tax once and for all. Keeping America strong, protecting the democratic process means protecting the separation of powers. We need judges who interpret the law and who don't make law from the bench.

We have made substantial progress on judicial nominations. We put one Chief Justice, one Associate Justice, six previously filibustered circuit court nominees, 20 other circuit nominees, and 104 district court nominees on the bench since 2003. But we cannot rest on that progress.

Terry Boyle is one example of a nominee who deserves our consideration. He was nominated for a circuit court judgeship back in 1991 and then again in 2001. He has been waiting 15 years for a fair up-or-down vote.

Another is Brett Kavanaugh, first nominated in July 2003. He has been waiting ever since that date. He, too, deserves a fair up-or-down vote.

We need to keep up the momentum and keep driving forward so that each and every nominee gets a fair up-or-down vote on the floor of the Senate.

The weather is warming up and we are approaching the summer driving season, and American families are being squeezed tighter and tighter by these skyrocketing gas prices. We need to help them find relief. We know there is no single magic bullet. We know it is an issue of supply and demand.

As a first step, Speaker HASTERT and I have asked the President to direct the Federal Trade Commission and the Department of Justice to investigate if price gouging or speculation in the oil markets is contributing to the current high prices.

We need to get to the bottom of it, and if we do so, we may have legislative action required on the floor of the Senate, or we may not, but only an investigation, only an examination by the FTC and DOJ can give us that answer.

We need to find short-term solutions. In the long term, however, the answer is to reduce America's dependence on foreign oil. The fact that we are 60-percent dependent today on foreign sources of oil is simply inexcusable.

During our majority over the last 12 years, Democratic obstruction and delay has stopped measures to enhance domestic production, and domestic production must be a part of any long-term solution for our energy supply.

The President laid out a number of initiatives in his State of the Union

Address, and I hope we can pursue them in committees and then bring them to the floor quickly. Again, challenge, action, solutions.

Those are some of the things we need to be doing over the next 5 weeks. There is a lot to do in a very short period of time, but I am convinced that with determination and focus and by leading on principle, we can and we must govern with meaningful solutions on the issues that matter, and they can be delivered to the American people. We can make America stronger, we can make America safer, and we can make it more secure. We must keep America moving forward.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Montana.

ENERGY

Mr. BURNS. Mr. President, this morning the leader touched on a lot of problems we have before us as we come back from Easter break. I know most of us have been home and listened to the folks at home. Most of us have probably come back with more challenges than when we left. Here are a couple of issues.

I was glad to hear the leader bring up the situation on insurance premiums, especially for small businesses and the self-employed. Senator ENZI of Wyoming and I have been working on the small business health plans for almost a year now. That is nothing new. It is not a new idea. Ever since I joined the Small Business Committee and even under the chairmanship of my good friend from Arkansas, Senator Bumpers, prior to 1994, we were working on the same issue, but we were unsuccessful then and have been unsuccessful up until now in striking a balance. There is broad support for the approach being taken by the chairman of the HELP Committee.

If you talk with folks engaged in small business, Montana businesses with 10 employees or less have little or no leverage when it comes to buying group insurance or trying to broaden their pool to keep their insurance premiums at a minimum. I look forward to that debate when the bill comes to the floor, and I look forward to final passage and getting it to the President for his signature.

I took a drive across the State of Montana over Easter Recess, all by myself. I just jumped into my pickup and took off and talked with rural Montanans. I fight awfully hard for rural Montanans for the simple reason that, right now, they are sort of being pushed into the background when we start talking about what is happening in our economy. Even though our livestock prices are decent, the grain producers, and many other folks, still have a real problem because they cannot get their arms around this business of containing costs, and the cost of energy is their main issue.

Whenever gas and diesel prices go up, it goes up on the farm also, and the cost of putting a crop in and getting it out has increased substantially due to these high energy costs.

We are a big State. We are a mobile State. We are 147,000 square miles. Yes, we only have 900,000 people, and some could probably make the case it is getting a little crowded up there. We have to drive long distances just to do business around the State, and these energy prices are impacting all of us.

Everybody wants to stand around on the floor of the Senate pointing fingers, when we could be looking at the real case of cumulative effects—of what we have done in policy and what has to be done to produce more energy for a growing society and a growing economy.

We are driven by agriculture in my State. Farmers and ranchers are price takers; in other words, we sell wholesale, we buy retail, and we pay the freight both ways. Any time we talk about freight, whether it is delivering or receiving, energy is involved.

So we are caught in what some would think is a perfect storm. We haven't hit the \$3 mark for gasoline in Montana yet, as other parts of the country have, but we are nearing it. In fact, we are so close to it that folks are afraid of what will happen if we do hit it.

I will tell you this: We have a situation in northeast Montana and northwest North Dakota called the Williston Basin. This area is quite a large producer of oil and gas. When we start quoting the price of oil on the New York Mercantile Exchange, we are not really talking about what the cash or spot price of oil is costing today. Do you realize, even though everybody is talking about the price of \$73 a barrel, that market price is not being paid to our oil producers today? It is a long way from that \$73. In fact, it is from \$25 to \$35 lower than even the spot price. Why? We are finding more oil, we are doing a better job of finding oil and lifting it, but the infrastructure of transportation—in other words, getting the crude to the refineries—and the refineries' capacity to refine it has not kept pace even with our own production in the United States. Therein lies a problem, and it is one we have to address.

We have not built a refinery in this country for 30 years—35 years, I think,

if you want to get very particular. The ability to expand refining capacity in the present-day facility is becoming very expensive and cannot be done without expanding outside the boundary.

If anybody has the idea that the refiners are making a lot of money, look at their return on investment. It is not very big. So people point their fingers at the refiners. Do they point their fingers at the big oil companies? Yes, they do, and in some cases justifiably so. We can sit here and poke holes in that argument. But our basic problem is siting and building facilities to satisfy a growing demand.

If you want to build a new refinery, or if you want to build a new pipeline to move the crude to the refining areas, I will tell you, you are going to have sticker shock when you look at what it costs just in permitting and siting for that facility. It is unbelievable. 25 percent of the estimated construction cost of a new refinery now will be eaten up in permits and siting, and all because of some laws and regulations that basically do not serve this country very well.

Am I justifying the prices today? Somewhat. But I think what we are seeing is a perfect storm of cumulative effects, of not keeping pace with our ability to produce and lift oil from the ground.

Alternative fuels and renewable fuels are also an important part of our energy program.

In 2002, we actually got a title into the agricultural bill that dealt with renewables and agriculture. We knew that we were going to have an energy bill and that title would dovetail into some of the policies that we wanted to put forward in an energy bill. We knew that an energy bill should come pretty quick. However, it did not come quickly. It came some 4 years later. After dragging and stalling and putting up all kinds of barriers, we finally got an energy bill in 2005, and we did dovetail some of the elements on renewables as it relates to agriculture.

In 2007, we will renew the Agriculture bill. And I would not be a bit surprised if we do not see energy even in the main title because we can produce renewables and we can produce alternative fuels to make sure we wean ourselves off of our dependency on foreign oil. We have to do that. We are going to get it done even though there are people who will obstruct and drag their feet in setting the policy.

I see my good friend from Utah is in the Chamber. Whenever you are producing oil at post-1970 production in the State of Montana, that means we have crude oil, like the crude oil that could go to refineries today in his State of Utah, from pipelines that are fed out of Montana, as well as to refineries in Montana and also in Colorado. Do you realize a 36-inch pipeline moves something like 86 thousand barrels a day? We can't even get on that pipeline. That pipeline is owned by Canada,